



CITY OF COEUR D'ALENE

LEGAL DEPARTMENT

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Mr. Brian P. Kane, Esq. VIA E-MAIL: brian.kane@ag.idaho.gov
Assistant Chief Deputy Attorney General
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RE: Rep. Kathleen Sims conflict of interest complaint

Dear Brian:

Thank you for forwarding to me a copy of Rep. Sims' scurrilous letter to Attorney General Wasden requesting an investigation of alleged conflicts of interest in Coeur d'Alene. It appears that Rep. Sims has opened a new front in her on-going battle against urban renewal and Coeur d'Alene city government. My response to the allegations in her letter is as follows:

As the Coeur d'Alene city attorney I analyzed the alleged conflicts several weeks ago and advised the Mayor and Council members that, pursuant to Idaho Code 59-700 et seq, no real or potential conflict of interest exists regarding their vote on the proposed McEuen Park Master Plan (hereinafter "MPMP"). Pursuant to that advice, the proposal was voted on by the full council at a properly noticed city council meeting on May 24, 2011 and the MPMP was approved by a 5 – 1 vote. Mayor Bloem presided over the meeting but did not vote on the matter.

Mayor Sandi Bloem Mayor Bloem is a 1/3 owner of a family run corporation (Dingles, Inc.) that owns a commercial building at the corner of Fourth and Sherman in Coeur d'Alene. It is in the heart of downtown and is surrounded by several blocks of commercial buildings. McEuen Park is one block from this building. The MPMP that was approved includes a proposal to close one block of Fourth Street in order to create a pedestrian link from McEuen Park to Sherman Avenue. It is arguable that this link will benefit Dingles, Inc., and therefore the Mayor, in the same way it will benefit every other business in downtown. I think it is self-evident that the only reason for doing the improvements to create a pedestrian link between the park and downtown is to create a beneficial link for all park and downtown property owners and visitors. There is no "private pecuniary benefit" accruing to Mayor Bloem. If the plan involved painting the Mayor's building or relieving her of some financial obligation then there would likely be a private pecuniary benefit to her. However this is not the case. In fact it could be argued that Dingle's Inc. and the Mayor may suffer a private pecuniary detriment because of the elimination of car access to Fourth Street and the possibility of assessments for improvements along Fourth Street. The bottom line is there is no private pecuniary benefit that accrues to Mayor Bloem because of the proposed improvements to McEuen Park.

Councilman Mike Kennedy Councilman Kennedy is a salaried employee of Newmax, LLC d/b/a Intermax Networks. Steve and Judy Meyer are the 100% owners of Newmax, LLC. Steve and Judy Meyer are also 50% owners of Black Ridge Properties, LLC. Black Ridge Properties, LLC owns a commercial building that is on the corner of Third Street and Front Avenue (across the street from McEuen Park) in Coeur d'Alene. Rep. Sims allegation is that any official action by Councilman Kennedy relating to McEuen Park would create a private pecuniary benefit to a business with which he is associated because the owner of the company he works for owns half interest in an LLC that owns one of the many buildings across the street from the park. Even the broadest reading of I.C. 59-703 does not recognize a conflict of interest merely because a public official is an employee of a corporation that is owned by individuals that are part owners of another corporation that owns a building that might derive some pecuniary benefit from the public official's official action. Even if you adopt that tortured interpretation of the statutory definition of a "business with which the public official is associated", as with Dingle's Inc., there is absolutely no evidence of any "private pecuniary benefit" accruing to the property owner. Any benefit would be shared by many, if not all, Coeur d'Alene citizens and in fact there may be detriments to the property owner caused by the official action.

P&Z Chairman/LCDC Board Member Brad Jordan I have not been previously called upon to analyze Mr. Jordan's potential conflict of interest. Mr. Jordan apparently owns or is part owner of a building on Fourth Street however, as with Mayor Bloem, there is no discernable "private pecuniary benefit" that Mr. Jordan would receive because of the proposed MPMP. He may choose to recuse himself in the unlikely event that this matter comes before the Coeur d'Alene Planning and Zoning Commission, but I am not aware of any legal justification requiring him to do so. I believe that counsel for LCDC has addressed the lack of conflict of interest under the relevant urban renewal statutes so I will not address that issue.

Councilmen Al Hassell and Deanna Goodlander I can find no statute that defines "conflict of interest" to exist merely because council members also sit on a city's urban renewal agency's board. In fact the urban renewal statutes in Idaho specifically allow the urban renewal agency's governing board to be made up of city council members.

Councilman John Bruning Councilman Bruning was one of the 21 members of the citizen advisory committee that developed the MPMP. I can find no statute that defines "conflict of interest" to include council members who sit on advisory boards relating to city projects where there is no private pecuniary benefit accruing to the council member, the proscribed family members or business associates.

Miller Stauffer Architects Monte Miller and Dick Stauffer are architects who are part of the "Team McEuen" design team that was selected to design the MPMP after an RFP process conducted pursuant to IC 67-2320. I believe that they are partial owners of two buildings across the street from McEuen Park. They are also talented, long-time residents of Coeur d'Alene who are members of a team of professionals that is being compensated by the city for professional services rendered pursuant to a written contract that was the result of a publicly conducted RFP process. They are not public officials and are not taking any official action that would cause them to run afoul of any Idaho conflict of interest law.

In summary, under the clear terms of the Idaho Ethics in Government Act none of allegations by Rep. Sims have any merit. Rep. Sims' broad allegations contain no facts showing any violation of any laws, ethical or otherwise. Under the ethical standard posited by Rep. Sims, no public official in Idaho could ever take official action on an item if they were a property owner, or even a resident in general, in their jurisdiction because every item that comes before public officials has the potential to provide some nominal or incremental benefit to a class to which they belong. Luckily, that is not the standard contained in the Idaho statutes and I sincerely doubt that that is the standard followed by Rep. Sims in her own role as a State Representative.

I hope that your office will quickly deal with these absurd allegations so that the trust in public officials in Coeur d'Alene is not further corroded by false allegations. Please contact me if you need any additional information. Thank you for your consideration.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Michael C. Gridley".

Michael C. Gridley
City Attorney

cc: Barry McHugh – Kootenai County Prosecutor
Mike Patrick - Coeur d'Alene Press
Dave Oliveria – Spokesman Review
Kathleen Sims – Representative, District 4